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EXAMINER SHELEHEDA, JAMES R				
ART UNIT		PAPER NUMBER		
2424				
NOTIFICATION DATE		DELIVERY MODE		
04/12/2011		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

vera.kublanov@philips.com

debbie.henn@philips.com

marianne.fox@philips.com

Office Action Summary

Application No.

10/531,022

Applicant(s)

MONTVAY ET AL.

Examiner

JAMES SHELEHEDA

Art Unit

2424

Period for Reply
-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 04/04/11 have been fully considered but they are not persuasive.

On pages 5-6, applicant argues that Rafey only sorts programs based on duration and that there is "nothing temporally limited about the particular criterion".

In response, it is noted that Rafey explicitly discloses the use of a "temporally limited criterion" as the user will specify a desired time duration (paragraph 10, 18-19). The user has entered a criterion related to a particular time limit.

The programming content fulfilling the criterion (meeting the users time duration limit; paragraph 26) will then be displayed sorted based on the duration (paragraph 26), from shortest to longest, thus corresponding to the remaining duration of users specified time limit (paragraph 26).

On page 6, while applicant further argues that "In Rafey, only if a new sort is conducted at a later time will the programs move on the list...".

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., moving the programs within the list) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the

specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The claim merely requires that programs fulfilling the temporally limited criterion to be positioned within the list. There is no requirement for the program to be moved or repositioned within the list, as applicant seems to suggest. Rafey clearly meets the claim limitations by identifying programs which meet the users defined time limit (a temporally limited criterion), and then sorting them based on the time duration of the content and thus the remaining time of the criterion.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6, 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel et al. (Maissel) (US 2004/0049787 A1) (of record) in view of Shah-Nazaroff et al. (Shah-Nazaroff) (6,317,881) (of record) and Rafey et al. (Rafey) (US 2003/0110501 A1) (of record).

As to claim 1, Maissel discloses a method of controlling the program selection at the receiver (customization of the program guide; paragraphs 134-147) of at least one broadcast medium (television network; paragraph 101), the method comprising the steps of:

managing a list of preferred programs (customized program listings based upon user preference; paragraphs 134-147) accordance with predetermined criteria (contained within preference profiles; paragraph 134), and in which at least a part of the criteria is based on information about the program evaluation by other users of the broadcast medium (utilizing preference profiles from multiple users; paragraph 134 and 154), using a separate enquiry of the other users (paragraph 124); and

allowing the user to allow a user to navigate through the list (paragraph 201) of preferred programs in accordance with the predetermined criteria (paragraph 134-147), he fails to specifically disclose wherein the method includes a separate enquiry to at least one other user for input and wherein programs fulfilling a temporally limited negative criterion are positioned at a distance from the current navigation position in the list, which distance corresponds to the remaining duration of the negative criterion.

In an analogous art, Shah-Nazaroff discloses a system to identify preferred programming (column 2, lines 43-61) which will separately question a plurality of different users of the system (column 3, lines 47-column 4, lines 54) so as to evaluate and rate the programming (column 5, line 8-column 6, line 22) for the typical benefit of providing a more accurate system for recommending content (column 2, lines 43-61 and column 5, line 8-column 6, line 22).

Additionally, in an analogous art, Rafey discloses a system for managing a list of programs (paragraph 10-11) wherein programs with content fulfilling a temporally limited criterion are positioned at a distance from the current navigation position in the list, which distance corresponds to the remaining duration of the criterion (sorting program

based on the duration of its content, so that longer running programming is listed below shorter programming content (paragraph 19, 25, 26) so as to provide a more user friendly system by easily allowing the viewer to specify the time they have to view programming and identify programs which can be viewed in the available amount of time (paragraph 10).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Maissel's system to include wherein the method includes a separate enquiry to at least one other user for input, as taught in combination with Shah-Nazaroff, for the typical benefit of providing a more accurate system for recommending content.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Maissel and Shah-Nazaroff's system to include wherein programs with content fulfilling a temporally limited criterion are positioned at a distance from the current navigation position in the list, which distance corresponds to the remaining duration of the criterion, as taught in combination with Rafey, for the typical benefit of providing a more accurate system for recommending content.

As to claim 2, Maissel, Shah-Nazaroff and Rafey disclose wherein the program evaluation is gained from an inquiry of evaluation notes by other users (paragraph 124, 134, 154 and column 3, lines 47-column 4, lines 54, column 5, line 8-column 6, line 22).

As to claim 3, Maissel, Shah-Nazaroff and Rafey disclose wherein at least a part of the predetermined criteria is based on information about:

explicitly predetermined user preferences (paragraph 124); and
implicitly gained user preference (paragraph 123).

As to claim 4, Maissel, Shah-Nazaroff and Rafey disclose wherein the criteria are weighted adaptively (paragraph 169).

As to claim 5, Maissel, Shah-Nazaroff and Rafey disclose wherein control inputs enable a user to navigate stepwise through the list (paragraph 201-203; Fig. 9A-9C).

As to claim 6, while Maissel discloses a method of controlling the program selection at the receiver of at least one broadcast medium, in which a list of preferred programs (customized program listings based upon user preference; paragraphs 134-147) is managed in accordance with predetermined criteria (contained within preference profiles; paragraph 134), wherein at least a part of the criteria is based on information about the program evaluation by other users of the broadcast medium (utilizing preference profiles from multiple users; paragraph 134 and 154), and in which control inputs enable a user to navigate stepwise through the list (paragraph 201-203; Fig. 9A-9C), wherein a new program is added to the list (paragraph 134, 135 and 138), when its limits are exceeded when navigating through said list (program viewing which exceeds a set minimum time period; paragraph 178), he fails to specifically disclose wherein the

method includes a separate enquiry to at least one other user for input and wherein programs fulfilling a temporally limited negative criterion are positioned at a distance from the current navigation position in the list, which distance corresponds to the remaining duration of the negative criterion.

In an analogous art, Shah-Nazaroff discloses a system to identify preferred programming (column 2, lines 43-61) which will separately question a plurality of different users of the system (column 3, lines 47-column 4, lines 54) so as to evaluate and rate the programming (column 5, line 8-column 6, line 22) for the typical benefit of providing a more accurate system for recommending content (column 2, lines 43-61 and column 5, line 8-column 6, line 22).

Additionally, in an analogous art, Rafey discloses a system for managing a list of programs (paragraph 10-11) wherein programs with content fulfilling a temporally limited criterion are positioned at a distance from the current navigation position in the list, which distance corresponds to the remaining duration of the criterion (sorting program based on the duration of its content, so that longer running programming is listed below shorter programming content (paragraph 19, 25, 26) so as to provide a more user friendly system by easily allowing the viewer to specify the time they have to view programming and identify programs which can be viewed in the available amount of time (paragraph 10).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Maissel's system to include wherein the method includes a separate enquiry to at least one other user for input, as taught in combination

with Shah-Nazaroff, for the typical benefit of providing a more accurate system for recommending content.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Maissel and Shah-Nazaroff's system to include wherein programs with content fulfilling a temporally limited criterion are positioned at a distance from the current navigation position in the list, which distance corresponds to the remaining duration of the criterion, as taught in combination with Rafey, for the typical benefit of providing a more accurate system for recommending content.

As to claim 8, Maissel, Shah-Nazaroff and Rafey disclose wherein program information is supplied when a program is selected from the list (paragraph 201).

As to claim 9, while Maissel discloses a receiver for at least one broadcast medium (110, Fig. 1; paragraph 101), comprising a processing unit (paragraph 102) for managing a list of preferred programs (customized program listings based upon user preference; paragraphs 134-147) in accordance with predetermined criteria (contained within preference profiles; paragraph 134), where at least a part of the criteria is based on information about the program evaluation by other users of the broadcast medium (utilizing preference profiles from multiple users; paragraph 134 and 154), wherein the processing unit has an input for information signals relating to the program evaluation by other users of the broadcast medium (utilizing preference profiles from multiple users; paragraph 134 and 154), he fails to specifically disclose wherein the method

includes a separate enquiry to at least one other user for input and wherein programs fulfilling a temporally limited negative criterion are positioned at a distance from the current navigation position in the list, which distance corresponds to the remaining duration of the negative criterion.

In an analogous art, Shah-Nazaroff discloses a system to identify preferred programming (column 2, lines 43-61) which will separately question a plurality of different users of the system (column 3, lines 47-column 4, lines 54) so as to evaluate and rate the programming (column 5, line 8-column 6, line 22) for the typical benefit of providing a more accurate system for recommending content (column 2, lines 43-61 and column 5, line 8-column 6, line 22).

Additionally, in an analogous art, Rafey discloses a system for managing a list of programs (paragraph 10-11) wherein programs with content fulfilling a temporally limited criterion are positioned at a distance from the current navigation position in the list, which distance corresponds to the remaining duration of the criterion (sorting program based on the duration of its content, so that longer running programming is listed below shorter programming content (paragraph 19, 25, 26) so as to provide a more user friendly system by easily allowing the viewer to specify the time they have to view programming and identify programs which can be viewed in the available amount of time (paragraph 10).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Maissel's system to include wherein the method includes a separate enquiry to at least one other user for input, as taught in combination

with Shah-Nazaroff, for the typical benefit of providing a more accurate system for recommending content.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Maissel and Shah-Nazaroff's system to include wherein programs with content fulfilling a temporally limited criterion are positioned at a distance from the current navigation position in the list, which distance corresponds to the remaining duration of the criterion, as taught in combination with Rafey, for the typical benefit of providing a more accurate system for recommending content.

As to claim 10, Maissel, Shah-Nazaroff and Rafey disclose a method as claimed in claim 1 (see claim 1 above), or a receiver as claimed in claim 9 (see claim 9 above), wherein the broadcast medium is television (paragraph 101).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES SHELEHEDA whose telephone number is (571)272-7357. The examiner can normally be reached on Monday - Friday, 9:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pankaj Kumar can be reached on (571) 272-3011. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Sheleheda/
Primary Examiner, Art Unit 2424